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Our File No.: 4889010001

February 18, 2010

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Notice of Ex Parte Meeting
Telecommunications Relay Services and Speech-to-Speech Services for
Individuals with Hearing and Speech Disabilities
CC Docket No. 03-123

Dear Ms. Dortch:

On February 17, 2010, Claude L. Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc. ("TDI"); Shane H. Feldman, Chief Operating Officer, National Association of the Deaf ("NAD"); Lise Hamlin, Director of Public Policy & State Development, Hearing Loss Association of America; Cheryl Heppner, Vice Chair, Deaf and Hard of Hearing Consumer Advocacy Network; Elizabeth T. Spiers, Director of Information Services, American Association of the Deaf-Blind; and the undersigned counsel to TDI, met with Joel Gurin, Chief Consumer & Government Affairs Bureau ("CGB"), Mark Stone, Deputy Chief, CGB; and Michael Jacobs, CGB.

We discussed the following matters:

- The Telecommunications Relay Service ("TRS") functional equivalency requirements of Section 225 of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 225, the dynamic nature of these requirements, and the differing functional equivalency needs of people with different types of hearing and speech disabilities. Attached are copies of the following handouts that we provided: (1) Samples of Functional Equivalence Using VRS; (2) Captioned Telephone Service from Ultratech's website; and (3) summary of a Meeting Regarding Captioned Telephone Service that representatives of HLAA, NAD, TDI, DHHCAN, the Alexander Graham Bell Associations of the Deaf and Hard of Hearing ("AG Bell"), the American Association of People with Disabilities ("AAPD"), and the American Speech-Language-Hearing Association ("ASHA") held with Mark Stone on November 5, 2009.
- The role of the Disabilities Rights Office ("DRO"). Attached is a copy of a handout that we provided regarding Consumer Groups' Expectations of

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Responsibilities and Goals for the DRO submitted to the Commission on February 27, 2009.

- The apparent decision of the National Exchange Carrier Association (“NECA”) to categorically withhold payment for certain types of calls, regardless of whether fraud or abuse was involved in the call. We explained that NECA improperly relied upon the September 18, 2009 CGB Order, DA 09-2084, dismissing in part the Petition for Rulemaking to Clarify Relay Rules filed by Purple Communications, Inc. on August 12, 2009 (the “CGB Order”). We explained that in addition to the reasons specified in the Application for Review filed by the Consumer Groups on October 19, 2009, the CGB Order was inconsistent with Section 64.604(a)(3)(ii) of the rules, 47 C.F.R. § 64.604(a)(3)(ii), which requires that “[r]elay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so.” We also requested that the Commission expeditiously grant review and reverse the unlawful CGB Order.
- The need for a two-step Video Relay Service (“VRS”) rate proceeding. We explained that the first step would determine the methodology for rate setting, and the second step would apply the methodology to set the rates. We suggested that if there is insufficient time to complete the proceeding before the June 30, 2010 termination date for current rates, that the Commission set interim rates, pending completion of the two-step proceeding. We also explained that there is no connection between VRS fraud and abuse and VRS rates.

Very truly yours,



Eliot J. Greenwald

Cc (by e-mail): Joel Gurin
Mark Stone
Michael Jacobs
Claude L. Stout
Shane H. Feldman
Lise Hamlin
Cheryl Heppner
Elizabeth T. Spiers

Samples of Functional equivalence using VRS

NorCal Services for Deaf & Hard of Hearing is one of the 8 sister deaf agencies in California serving Region 7 (24-northeastern California).

Below are just a few excerpts I took from recent 5-page report we sent to the state of California (January):

- Deaf man who relocated to California from Michigan with his family requested assistance obtaining medical insurance coverage. He told our staff that he was denied medical coverage and showed staff denial letters from Welfare and Medi-Cal. Since consumer is SSI/SSDI recipient, NorCal staff contacted the Social Security Administration office via VRS and was told that the Consumer's Medicare was active for doctor and hospital services. Staff then contacted Welfare via VRS who informed our staff that consumer was not eligible for Medi-Cal because he already had Medicare. Staff explained to consumer and suggested that his girlfriend apply for Medi-Cal for herself and their son. Staff assisted consumer's girlfriend, also deaf, in applying for medical coverage for herself and their child. At the time, staff learned that the girlfriend was 4 months pregnant and did not have access to prenatal care. NorCal staff then assisted in completing the paperwork for Welfare, recommended that the pregnant consumer enroll in the Women, Infant and Children (WIC) program and then referred the consumer to a county clinic. Staff contacted the clinic via VRS to advocate and ensure an interpreter for all of pregnant consumer's appointments. Staff also provided information about public transportation for the family to get to their appointments at the clinic. **OUTCOME:** Family now has medical coverage and the pregnant mother is receiving prenatal care with interpreting services.
- Hard of Hearing parolee, in preparation for his release from prison, contacted our office via mail and requested advance assistance in obtaining an interpreter for his initial parole meeting and assistance with housing, funding and medical care. Upon receiving signed consent forms from the consumer, our office contacted the Parole office via VRS and was told that he could not have an interpreter. Staff referred the parolee to his department's disability accommodation procedures. The Parole office apologized for the oversight and told staff that the parolee needed to fill out the request form before he could request an interpreter. Staff mailed the paperwork to the parolee with instruction. Parolee returned completed paperwork to NorCal who then forward to the Parole office and confirmed interpreting services for parolee's parole appointment. In addition, NorCal staff made many calls for housing and clothing. **OUTCOME:** With the benefit of an interpreter for his parole meeting, Parolee understood the conditions and rules of his parole. Staff successfully obtained housing and free clothes, and assisted the parolee with his application for emergency funds and SSDI/SSA benefits.
- NorCal conducted a conference call via VRS with Sac County Sheriff, CPS, and Hospital to serve a deaf teen runaway survivor of domestic and sexual

violence from 10pm til 4am. **OUTCOME:** Team effort resulted in removing deaf teen from the home to a safe place with services in ASL.

CONCERNS AND PROPOSED SOLUTIONS FOR ADDRESSING IDENTIFIED CONCERNS:

- **Money Scams:** We are seeing an increase in the number of consumers falling victims to instant messaging, VRS, and email scam messages that they have won the lottery or qualify for free money.
 - We will plan another workshop on this topic, need for FCC to do more Consumer outreach and education workshops.
- **Rising costs of living:** Consumers are contacting our office for assistance through Email and VP because they cannot afford to make the trip to our office as a result of higher gas costs, food costs, electric bills, and loss of employment.
 - Staff is making more field visits to provide services and support, and using laptops to call VRS via aircards. Becomes difficult particularly in rural areas where broadband access is not available.
- **Medi-Cal and Medicare:** Benefits previously covered by Medi-Cal, Denti-Cal and Medicare are being reduced or cut. Many consumers are paying a high share-of-cost for doctor visits and prescriptions. They do not know that they can shop around for a more affordable plan via VRS.
 - Staff assists clients in locating medical/dental providers that will accept the coverage.
- **Domestic Violence** – Several clients continue to experience the waves and cycles of DV. Depression, fear, anxiety and other erratic behavior interfere with the ability to follow through in getting counseling, communicating with others, getting proper medical care, finding housing and other daily living needs via VRS. Staff provide assistance with survivor to make these contacts via VRS. Extremely important that VRS has qualified interpreters for such calls when survivor does this on her own.
- **Information on government websites:**
Staff and consumers complain they are unable to access information on government websites where videos webcast live or archived are not closed captioned for deaf and hard of hearing viewers. Need for FCC to enforce existing regs and deaf-friendly complaint process using Video msgs instead of written English.

Other:

For the month of January, received 2,360 individual requests for information and referrals via VRS. in person, and email.



The telephone that displays written, word-for-word captions of everything the caller says.



The exciting new telephone that displays captions of everything your caller says.

Ideal for people with some degree of hearing loss, the Captioned Telephone (CapTel™) works like any other telephone with one important addition: It displays every word the caller says throughout the conversation. CapTel users can listen to the caller, and can also read the written captions in the CapTel's bright display window.



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Advantages of CapTel

- Calls are made in a natural manner, simply dial the telephone number directly for the person you are calling
- Users enjoy natural telephone conversations, and can check the captions for added clarity.
- Everyone can use CapTel - simply turn off the captions feature to use it as a traditional telephone
- Captions appear nearly simultaneously with the spoken words
- CapTel includes an amplified handset and tone control for clarity

For more information:

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- [Where can I get one?](#)
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Description

Requirements

- Telephone Service
- High-Speed Internet**
- Standard electrical power

Be sure of what callers say - everytime - with the new CapTel 800i. This remarkable phone works like any traditional telephone, but it also connects to the Internet to show you written captions during your telephone conversations. You enjoy familiar telephone calls with the added benefit of captions - carried to your phone via the Internet.

Features

- Captions can be turned on/off as needed
- Callers dial your phone number directly
- Adjustable font sizes and colors

- Phone book to store frequently called numbers (95+ names)

Depending on your Internet set up, a Router may also be required to connect more than one device to your Internet service.

***People who do not have high-speed Internet access should use the CapTel 200.



Meeting Regarding Captioned Telephone Services

Office of Chairman Genachowski
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
November 5, 2009

Attendees

Sherrese Smith - Legal Advisor for Media, Consumer and Enforcement Issues, Federal Communications Commission (FCC)

Organizational Representatives

Lise Hamlin, Director of Public Policy, Hearing Loss Association of America (HLAA)

Jay Wyant, President, Alexander Graham Bell Association of the Deaf and Hard of Hearing (AG Bell)

Jenifer Simpson, Senior Director, Government Affairs, American Association of People with Disabilities (AAPD)

Ingrida Lulis, Director, Federal and Political Advocacy, American Speech-Language-Hearing Association (ASHA)

Cheryl Heppner, Vice Chair, Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN)

Rosaline Crawford, Director, Law and Advocacy Center, National Association of the Deaf (NAD)

Jim House, Public Relations Director, Telecommunications for the Deaf and hard of Hearing (TDI)

Via phone:

Sheri Ann Farinha, vice chair, California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH)

Agenda

- I. What is Captioned Phone Services (CTS): An Overview
- II. Issues
 - a. State limits on the number of individuals who may have access to captioned telephone services and/or lack of marketing
 - b. Some states limit access to phone service for out of state users
 - c. Some states' interpretation of FCC rules are not in sync with others
 - d. Single provider issue
 - e. Impact of the absence of a federal mandate on consumers
- III. Conclusion

We request the FCC initiate and complete a rulemaking proceeding for the purpose of mandating captioned telephone relay service nationwide over the public switched telephone network (PSTN)



**Meeting Regarding Captioned Telephone Services
Office of Chairman Genachowski
Federal Communications Commission
November 5, 2009**

Consumer organizations request the Federal Communications Commission initiate and complete a rulemaking proceeding for the purpose of mandating captioned telephone relay service nationwide over the public switched telephone network (PSTN) for the following reasons:

- The FCC has found captioned telephone relay service to be the only functionally equivalent relay service that can meet the unique needs of a particular population of individuals with hearing loss whose needs have not been met by other relay services approved by the Commission;
- The FCC's record, compiled in response to petitions filed in 2005 and 2009 requesting a captioned telephone relay service mandate, contains extensive comments from captioned telephone relay users attesting to the ways that this service has restored their independence, privacy, and productivity and enabled them to end their isolation, secure and retain employment, participate in civic affairs, conduct commerce, engage in recreational activities, and communicate with their families;
- Current state-imposed limitations on the number of individuals who may have access to captioned telephone relay services is impeding the ability of such individuals to have access to telephone service, in violation of the Americans with Disabilities Act's (ADA's) guarantees of nondiscriminatory telephone service and the Communications Act's universal service mandate;
- Current state-imposed limitations on the ability of captioned telephone users to access captioned telephone relay services when they change state jurisdictions is impeding the ability of such individuals to have access to telephone service, in violation of the ADA's guarantees of nondiscriminatory telephone service and the Communications Act's universal service mandate;
- The above state-imposed restrictions on the provision of captioned telephone relay service have been in existence for the six years since the FCC first approved this service in 2003, and are not likely to end without direction from the FCC.

**Consumer Groups' Expectations of
Responsibilities and Goals for
the Disability Rights Office (DRO)
Federal Communications Commission**
(submitted to the FCC on February 27, 2009)

The Consumer Groups submitting this document are:

- Telecommunications for the Deaf and Hard of Hearing, Inc.,
- National Association of the Deaf,
- Communication Service for the Deaf,
- Hearing Loss Association of America,
- California Coalition of Agencies Serving the Deaf and Hard of Hearing,
- Association of Late-Deafened Adults,
- Deaf & Hard of Hearing Consumer Advocacy Network, and
- American Association of the Deaf-Blind

Role of the Disability Rights Office:

- Serves the Commission with expertise, staffing, and other resources to address access needs of people with disabilities in telecommunications and information services
- Revise to be a stand-alone, independent office (like OET) that provides oversight function to ensure that all FCC proceedings and policies are consistent with the overall goal of ensuring access by people with disabilities to emerging technologies

Major Responsibilities:

- Addresses disability-related telecommunications matters, including, but not limited to, telecommunications relay services (TRS), access to telecommunications equipment and services by persons with disabilities, access to emergency information, closed captioning, and hearing aid compatibility
- Provides expert advice and assistance to the Chairman, the other four Commissioners, other Bureaus and Offices, other government agencies, consumers, industry, and others on issues relevant to persons with disabilities
- Initiates rulemakings, where appropriate, for the development of disability access policy
- Reviews relevant agenda items and other documents
- Coordinates with Bureaus and Offices to develop and propose policy recommendations to ensure that communications are accessible by persons with disabilities, in conformance with existing disability laws and policies, and that such recommendations support the Commission's goal of increasing accessibility of communications services and technologies for persons with disabilities. Educates the Commission on best practices to accomplish these crucial policy objectives.
- Works with other Bureaus and Offices to conduct audits and reviews in order to ensure that there is full compliance with and enforcement of the FCC's existing regulations for disability access

Implementation of Responsibilities:

- Reviews, acts, and reports on informal consumer complaints from people with disability-related issues. The staff in DRO should be aware of and sensitive to disability-related issues and therefore is better equipped to deal with such complaints.
- Establishes a close working relationship between the FCC and consumer groups to address the need for better access to and technological improvements in telecommunications and information services. Although the challenges are there and always evolving, technology can offer access solutions as well.
- Takes a proactive position in working collaboratively with the other Bureaus and Offices to address disability issues associated with policy development and public information, and makes recommendations to the Bureaus and Offices for action from the Chairman and the Commissioners.
- Reviews Commission meeting agendas and circulation items in advance, not only to ensure that there is no adverse impact on people with disabilities, but also when needed to proactively advance the needs of these communities associated with the subject of the rulemaking proceedings.
- Follows up on disability access related recommendations of the Consumer Advisory Committee.
- Serves as a resource support to the Consumer Advisory Committee and its working groups.
- Ensures sufficient staffing to carry out its functions, and meet its workload.
- Sets an example by being personally and professionally familiar with disability access and issues with a significantly higher number of staff with disabilities, especially in its leadership.
- Monitors industry developments for emerging technological innovations and new products, services and applications that offer solutions to accessibility, while maintaining ongoing communication in these areas with those in academia and research.
- Maintains the integrity of the TRS Fund through involvement with all stakeholders to ensure that sufficient reimbursement is made from the Fund only for legally authorized relay service calls and expenses.
- Exerts influence toward addressing the critical access needs of communities of people with disabilities, and providing sufficient guidance and adequate resources to industry to address those needs.
- Provides key consultation and leadership in enforcement of the FCC disability access requirements.
- Improves the navigability and content of its webpage so that it can become a useful resource for consumers, industry and governmental bodies.

Short-Term Goals

Within the next 12 months, consumers request that DRO take the following actions in these subject areas:

Closed Captioning

- Digital Conversion - Convene and actively participate in a task force to resolve technical issues concerning the provision of closed captioning on digital television programming; increase education and technical assistance to consumers and television providers/distributors with respect to digital captioning solutions
- Take action on the issues raised in the captioning quality petition filed in July 2004 by a coalition of consumer organizations that have still not been resolved.
- Support the rescission of the Angler's Exemption Order, and make individualized determinations on the pending requests for exemption from and in accordance with the closed captioning rules.

Telecommunications Relay Services

- Mandate the provision of captioned telephone relay services in each of 50 states, tribal lands, and other U.S. territories to achieve functionally equivalent telephone access for all Americans.
- Closely monitor and analyze progress of the implementation of the order requiring 10-digit NANP numbering and E911 services for Internet-based TRS users, and take appropriate action to ensure effective consumer outreach and education, as well as full implementation by all IP Relay and VRS providers.
- Sponsor a "summit" to solicit feedback from consumer groups and the TRS industry on ways to meet the relay service needs of people who are deaf-blind or are deaf and have low vision, and cannot access existing forms of relay service. Follow up with a notice of rulemaking, and then implement such a mechanism at the earliest possible time.
- Grant the pending petition to clarify that TRS includes communications between and among people with disabilities and not only communications between an individual with a disability and one without a disability.

Other

- Grant the petition filed by member affiliates of the Coalition of Organizations for Accessible Technologies to allow use of the Universal Service Fund to subsidize low-income deaf, hard of hearing, late-deafened and deaf-blind individuals in their purchase of broadband service (through the Lifeline and Link-up programs) and to defray the cost of specialized telecommunication devices needed by people who are deaf-blind.
- Brief the Commissioners on the upcoming COAT legislation, "21st Century Communications and Video Accessibility Act and prepare statements and testimony as necessary and appropriate.
- Expand on the FCC's successes in providing support services and accessibility tools for people who are deaf, deaf-blind, and hard of hearing in public meetings, information postings and outreach efforts, including communications in American Sign Language. (ASL), to allow people with various access needs to become better informed by the FCC. Ensure that those pages specific to DRO and disability issues as well as general consumer web pages throughout the FCC's website are easily accessible by those with disabilities.

Long-Term and Ongoing Goals

In addition to the above, consumers request that over the next few years, DRO take the following actions in these subject areas:

Video Programming

- Work with the Enforcement Bureau to actively monitor compliance of the FCC's rules on broadcasts of accessible emergency information.
- Perform compliance reviews of the TV industry to ensure compliance with rules requiring closed captioning of new and pre-rule TV programming. Initiate enforcement action when necessary.
- Convene a working group to develop technical and non-technical standards of TV captioning. Follow this with a rulemaking to get input on the proposed standards, and then issue an order to implement the standards.
- Review and make recommendations on modifying exemptions for captioning such as the \$3M revenue threshold and new networks' self-exemptions.
- Make policy changes to achieve real-time captioning of local news programming by all broadcasters regardless of market share by eliminating reliance on the use of the electronic newsroom (ENR) technology for such programming.
- Consider feasibility and authority of FCC action to require accessible user interfaces on video programming devices, to facilitate access to digital captioning features and controls.

Telecommunications Relay Services

- Achieve total interoperability of video relay services, and peer-to-peer video equipment.
- Improve oversight of Internet-based relay text and video services, including revisions to the certification process, periodic compliance audits of relay providers, actively monitoring of day-to-day compliance with FCC rules, and greater consistency and transparency in the creation and release of TRS rules.
- Review and determine whether to modify the scope of contributions to the Interstate TRS Fund with respect to the inclusion of IP-based communications providers, the setting of reimbursement rates, and the approval of expenses that are eligible for reimbursement from the Fund for Internetbased and other forms of relay services.
- Develop data regarding users and usage patterns of traditional TRS and Internet-based TRS to better understand the demographics concerning who is currently served or not, and why.
- Convene a task force to review the progress of ten-digit numbering and E911, and to gain perspectives on what is working and what needs remain to be addressed.

Emergency Access

- Work with related offices at DOT, NTIA, and DOJ to fulfill the potential and promise of the Next Generation E-911 project to enable direct communication by people with disabilities with public safety answering points (PSAPs) and emergency services through video, text and voice carried by wireline, wireless, and Internet-based communication networks.

Improved Implementation, Accountability and Enforcement

- Require greater accountability of companies covered under Section 255, including improved reporting and outreach obligations.
- Serve as a resource center and clearinghouse on disability access solutions in telecommunications and information services.
- Maintain an information and referrals program on accessibility matters within the FCC's jurisdiction through the offering of FAQs, vlogs, and other material on an FCC website that is easier to navigate and research.
- Conduct outreach across the nation on the rights of people with disabilities to telecommunications and other forms of accessibility during community events, such as exhibits, workshops and town hall meetings.
- Maintain and make publicly available a database of previous and outstanding disability access complaints; devise a schedule to resolve all such complaints. Includes hiring and/or training sufficient staff to handle incoming disability complaints in a timely fashion.

Hearing Aid Compatibility

- Work with the Wireless Bureau to oversee any additional changes in the hearing aid compatibility (HAC) regulations and assist that bureau in resolving any issues that might arise pertaining to HAC compliance.

Other

- Coordinate with the Access Board in the development of proposed recommendations to revise and update the Section 255 regulations.
- Coordinate with the Department of Justice in the development of proposed recommendations to update Titles II and III of the Americans with Disabilities Act with respect to provisions dealing with effective communication (including IVR systems).
- Take necessary actions to support captioned radio through HD technology as currently being tested by National Public Radio and its partners.
- Provide support, as needed, for federal investment in research and development activities conducted by the Department of Education and other agencies to promote universally accessible telecommunications products and services.